

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**EDWARD KAUFFMAN,  
Plaintiff,**

**v.**

**Case No. 2:04-CV-543  
JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Terence P. Kemp**

**THE SEDALIA MEDICAL  
CENTER, INC., PROFIT  
SHARING PLAN AND TRUST, et al.,  
Defendants.**

**OPINION AND ORDER**

This matter is before the Court for consideration of the Defendants' Motion for Stay of Proceedings to Enforce Judgment and for Posting of a Cash Supersedeas Bond with the Clerk of Court. (Doc. #69). For the reasons that follow, the motion is granted.

**I.**

On March 27, 2006, this Court granted Plaintiff's Motion for Judgment on the Administrative Record as to his claim for pension benefits under a plan governed by the Employee Retirement Income Security Act of 1974 ["ERISA"], 29 U.S.C. § 1001, *et seq.* The Court entered Final Judgment on February 9, 2007, after awarding Plaintiff attorneys' fees, costs and prejudgment interest<sup>1</sup>. A Notice of Appeal was filed on March 8, 2007. On April 26, 2007, Defendants filed the instant Motion to Stay enforcement of the Judgment and for posting of a supersedeas bond.

In support of their motion, Defendants represent that the judgment proceeds are available

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<sup>1</sup>The calculated amount of the award is \$202,682.26. This amount does not reflect any post-judgment interest.

in cash to post a bond or as collateral for a supersedeas bond. The proceeds are, however, part of a retirement plan and, according to Defendants, the plan documents are silent on the issue of plan fiduciaries collateralizing plan assets. Thus, the Defendants seek court approval to post and deposit \$210,000 with the Clerk of Court pending outcome of the appeal. Alternatively, Defendants request an order that Defendants hold the amount of \$210,000 as a supersedeas bond, invested in certificates of deposit, to be released upon court order.

The Plaintiff does not oppose Defendants posting a cash supersedeas bond with the Clerk but requests an amount of \$270,000. Plaintiff originally requested \$220,000, to adequately cover post-judgment interest. In an Amended Memorandum, Plaintiff requested \$270,000 to cover attorneys' fees on appeal. Defendants oppose the request.


The Court concludes that a bond in the amount of \$220,000 is sufficient. The Court finds that the inclusion of attorneys' fees incurred in connection with the appeal is not appropriate.

## II.

The Defendants' Motion (**Doc. #69**) is **GRANTED**. The Defendants shall forthwith post a bond with the Clerk of this Court in the amount of **\$220,000.00**.

**IT IS SO ORDERED.**

10-4-2007  
DATE

  
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EDMUND A. SARGUS, JR.  
UNITED STATES DISTRICT JUDGE